IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CAITLIN WEATHERS

Plaintiff

v. CIVIL ACTION NO. 4:22-cv-04085

HOUSTON METHODIST HOSPITAL, ET. AL.,

Defendants

PLAINTIFF'S REPLY
IN OPPOSITION TO DEFENDANT
HOUSTON METHODIST HOSPITAL, ET. AL.'s RESPONSE
IN OPPOSITION TO PLAINTIFF'S MOTION FOR RECONSIDERATION
IN MOTION FOR MISCELLANEOUS RELIEF

Plaintiff, Caitlin Weathers, files this REPLY in OPPOSITION to Defendant(s) Response in Opposition to Plaintiff's Motion for Default Judgment [Dkt. No. 78, 81].

A default judgment is generally defined as a judgment entered by the trial court at the plaintiff's request, based on a defendant's failure to appear and file an answer within the time allowed by law. TRCP 107, 238, 239; (*Fontenot v. Hanus*) A defendant must file a reply to a lawsuit by 10:00 a.m. on the first Monday following the expiration of twenty days from the date of service of the petition, unless that Monday is a legal holiday. TRCP 4, 99. A defendant's failure to answer a petition equates to an admission of all facts pleaded by the plaintiff and a waiver of all affirmative defenses. *Gardner v U.S. Imaging* (Tex 2008); *Texaco Inc. v. Phan*

(Houston 2004). Here, a default judgment conclusively establishes the defendant's liability since the facts indicate the plaintiff's cause of action in both the Charge of Discrimination and the Amended Complaint. *Morgan v. Compugraphic Corp.,* (Texas 1984)

On the date the defendant's answer is due, a plaintiff is entitled to have the trial court call the cause for default judgment, and the trial court may correctly enter a default judgment against any defendant who has not filed an answer after proper service. When a trial court is asked to enter a default judgment, the trial judge must make two basic judicial decisions: first, whether the court has jurisdiction over the subject matter; and second, whether the court has jurisdiction over the parties to the suit. *AAA Navi Corp. v. Parrot-Ice Drink Products*, 119 S.W.3d 401, 402 (Tex. App.Tyler 2003, no pet.). As such, the trial court must ascertain whether the defendant has been properly served with citation and whether the defendant has an answer on file. *Finlay v. Jones,* 435 S.W.2d 136, 138 (Tex. 1968); *Pino v. Perez*, 52 S.W.3d 357, 360 (Tex. App.—Corpus Christi 2001, no pet.).

There are different types of default judgment, including the *nihil dicit* judgment. The trial court correctly enters a *nihil dicit* judgment when the defendant has appeared and answered, placing the plaintiff's case at issue. Yet still, the defendant withdraws their answer before the trial. *Frymire Engineering Co. v. Grantham*, 524 S.W.2d 680, 681 (Tex. 1975); *Rose v. Rose*, 117 S.W.3d 84, 88 (Tex. App.Waco 2003, no pet.). There is also the post-answer default judgment that is correctly entered by the trial court when a defendant answers on the merits of the plaintiff's claims, but has their answer stricken due to improper conduct. *Stoner*, 578 S.W.2d at 682-85; *Pedraza v. Peters*, 826 S.W.2d 741, 745 (Tex. App.Houston [14th Dist.] 1992, no writ). Examples of inappropriate conduct in this case includes failing to file pleadings, motions, and other required documents within the prescribed deadlines which prejudices the plaintiff as

Patrick Palmer did not file a motion to withdrawal as counsel according to TRCP rule 10 in which to introduce multiple new attorneys then late, disobeying court orders where Judge Christina Byran had told Patrick Palmer during the status conference that he needed to answer the Plaintiffs requests [Dkt 62], and dishonesty and fraud by lying to the court and introducing false evidence beyond the prescribed timeframe in their responses to the Plaintiffs requests where the defendants accrediting agency *Det Norske Veritas* standards indicate contradiction in their responses. EXHIBIT A

In a post-answer default situation, judgment cannot be entered on the plaintiff's pleadings if a Motion for a More Definite Statement is considered an answer. Instead, a plaintiff must offer evidence to support claims as it would in a judgment resulting from a trial. *Stoner*,578 S.W.2d at 682; In the Interest of K.B.A., 145 S.W.3d 685, 690 (Tex. App. Fort Worth 2004, no pet.); *Holberg v. Short*, 731 S.W.2d 584, 587 (Tex. App. Houston [14th Dist.] 1987, no writ). Either of these applies in this case, as evidence has already been admitted supporting Weathers' claims, including the unopposed amended complaint and Charge of Discrimination. Here, the preponderance of the evidence standard applies. Further, defendants have changed their “answer” without pleading multiple times, excessively burdening the resources of this court.

For the foregoing reasons, Plaintiff respectfully requests that this Honorable Court grant the Plaintiff's motion for a default judgment against Defendant Houston Methodist Hospital. Et. al., and enter judgment in Plaintiff's favor, representing the amount requested in the settlement offer provided during the status conference, plus any pre-judgment interest.

X

Caitlin Weathers
Pro Se Litigant

Attorney for Defendant Houston Methodist Hospital, et. al.,

Dan Patton

S.D. of Tex Admission No. 26200

Texas Bar No. 24013302

dpatton@scottpattonlaw.com

Certificate of Service

I certify that on May 11, 2025, a true and correct copy of Plaintiff, Caitlin Weathers' Reply in OPPOSITION to Defendants' Response in Opposition to Default Judgment was served on all counsel and parties of record by the Court's ECF filing system in accordance with the Federal Rules of Civil Procedure.

Dan Patton

S.D. of Tex Admission No. 26200

Texas Bar No. 24013302

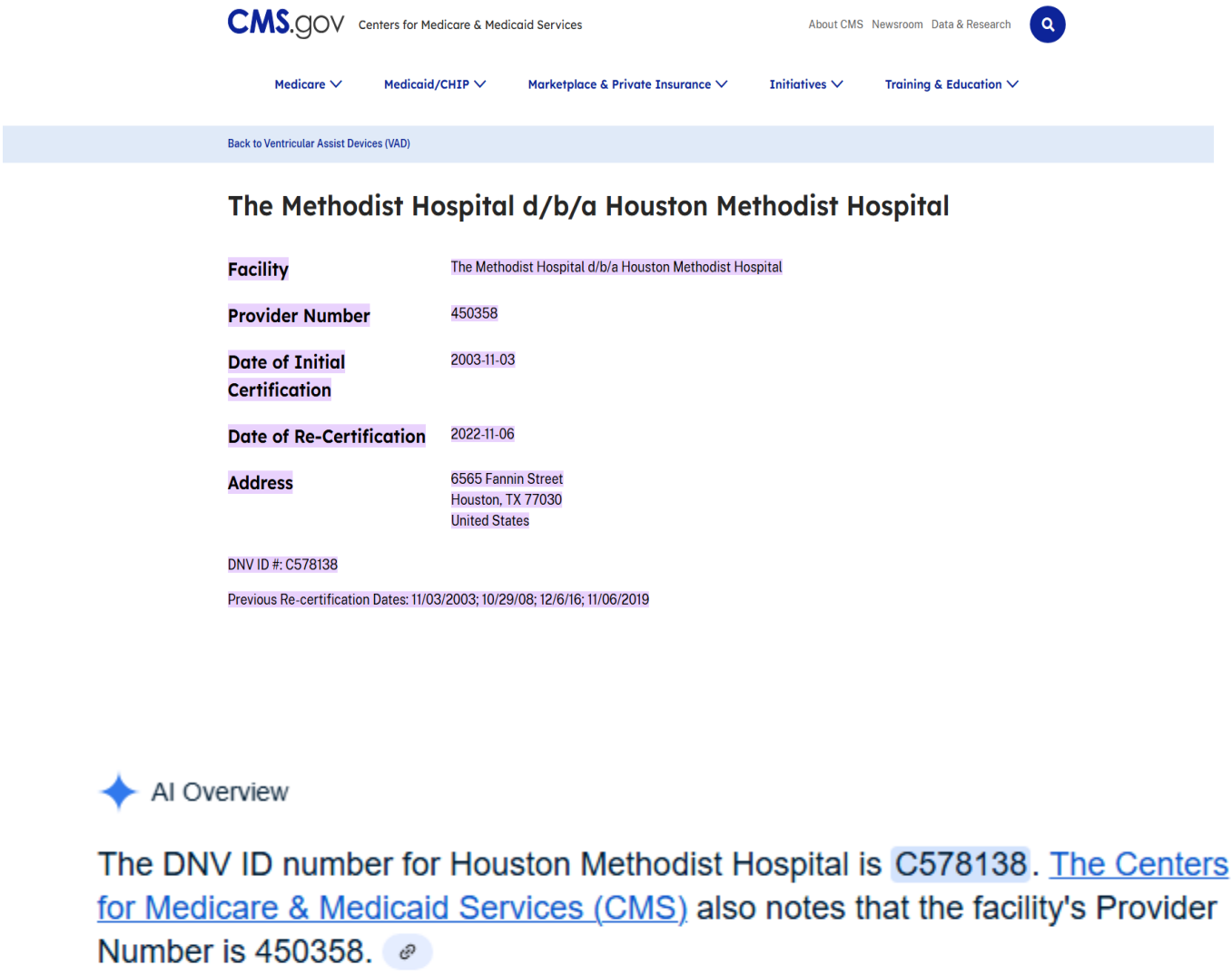
dpatton@scottpattonlaw.com

Attorney in Charge

X

Caitlin Weathers
Pro Se Litigant

EXHIBIT A



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The Methodist Hospital d/b/a Houston Methodist Hospital

Facility	The Methodist Hospital d/b/a Houston Methodist Hospital
Provider Number	450358
Date of Initial Certification	2003-11-03
Date of Re-Certification	2022-11-06
Address	6565 Fannin Street Houston, TX 77030 United States

DNV ID #: C578138

Previous Re-certification Dates: 11/03/2003; 10/29/08; 12/6/16; 11/06/2019

AI Overview

The DNV ID number for Houston Methodist Hospital is C578138. The Centers for Medicare & Medicaid Services (CMS) also notes that the facility's Provider Number is 450358.

Pages 42- 46 of Det Norske Veritas (DNV)

STAFFING MANAGEMENT (SM)

SM.1 LICENSURE OR CERTIFICATION

The organization shall have a policy and practice for outlining and verifying that each staff member possesses a valid and current license or certification as required by the organization and Federal and State law. This written policy shall be strictly enforced, and compliance data shall be reported to Quality Management Oversight.

Surveyor Guidance:

Review and validate the hospital's policy and practice for performing primary verification of the current licensure and/or certification of all staff members as required by the organization, and Federal and State law.

Review the process in place to enforce compliance and that data regarding verification and expirations is shared with Quality Management Oversight and/or Human Resources (Personnel) as needed, if this process is completed at the individual department level).

SM.2 PROFESSIONAL SCOPE

All staff, including contract staff, students, and volunteers, shall function within the limits of their scope of service as defined by their professional practice act, State law, and/or organization policy at all times. This written policy shall be strictly enforced and variations reported to Quality Management Oversight.

Surveyor Guidance:

Review the policy and verify that the hospital has a means of ensuring that all staff, including contract staff, students, and volunteers are functioning within the limits of their

scope of service as it has been defined by the hospital, respective professional practice acts and State law.

Verify the process for communicating any variations from provided services to Quality Management Oversight.

SM.3 DEPARTMENT SCOPE OF SERVICE

Each department, whether clinical or supportive, and each patient unit, shall have a written scope of service that includes at least:

SR.1 The hours of operation;

SR.2 Patient populations served;

SR.3 Skill mix;

SR.4 Core staffing and methods for determining and modifying staffing to meet patient or process needs; and

SR.5 Description of assessment and reassessment practices, including timeframes.

SR.6 Organization policies will identify how often and under what circumstances each department's scope of service must be reviewed and updated (e.g., if new services are added or discontinued, if the population served changes, etc.).

Interpretive Guidelines:

The hospital will have a description of the scope of services provided, whether clinical or supportive, for each patient unit. This scope of service will address the following:

- The hours of operation.
- Patient populations served.

- Skill mix.
- Core staffing and methods for determining and modifying staffing to meet patient or process needs.

And Description of assessment and reassessment practices, including timeframes.

The hospital will describe and illustrate the sequence and interaction of these processes (services).

Surveyor Guidance:

Verify that the hospital has a description of the scope of services provided for all services, including clinical or supportive, and that it encompasses each patient unit.

Verify that the scopes of service include the items listed above within the Interpretive Guidelines.

Review the documents and/or illustrations that describe the sequence and interaction of these processes (services).

SM.4 DETERMINING AND MODIFYING STAFFING

SR.1 The method for determining and modifying staffing shall be validated through periodic reporting of variance from core staffing, outlining justification, and linking that justification with patient and process outcomes, including any untoward patient events or process failures.

SR.2 This validation shall be done and reported to Quality Management Oversight, when indicated.

Interpretive Guidelines:

The hospital will develop a method for determining and modifying staffing. Staffing will be validated through periodic reporting of variance from core staffing and outlining the

justification and link for that justification with patient and process outcomes, including any untoward patient events or process failures. Validation of the measures regarding the impact of staffing on processes will be reported to Quality Management Oversight when indicated.

Surveyor Guidance:

Review and verify the method(s) used by the hospital for determining and modifying staffing when indicated.

Validate that there is a means to report variances and other associated information to Quality Management Oversight.

SM.5 JOB DESCRIPTION

All staff, whether clinical or supportive, including contract staff, students, and volunteers, shall have a current job description (or job responsibilities) available that contains the experience, educational, and physical requirements, supervision (as indicated), and performance expectations for that position.

Surveyor Guidance:

Review a sampling of job descriptions to verify that the hospital has identified the appropriate experience, educational and physical requirements and performance expectations for the positions reviewed. This includes contracted staff for nursing and/or other areas of the organization.

SM.6 ORIENTATION

All staff, whether clinical or supportive, including contract staff, students and volunteers, shall receive an orientation to specific job duties and

responsibilities, and their work environment, as required by Federal and State law and regulation and the organization. The orientation shall take place prior to the individual functioning independently in their job.

SR.1 Members of the medical staff will receive an orientation developed and approved by the organization that includes general safety practices, emergency procedures, infection control, confidentiality and other issues as required by the organization.

Interpretive Guidelines:

The hospital will require that all staff, including contract staff, students and volunteers receive an orientation prior to working independently in their respective roles for the hospital.

This orientation will address, at a minimum, the following topics:

- Organizational structure;
- Patient confidentiality and ethics;
- Document control, retrieval and verification (specific to policies, procedures, and work instructions/protocols);
- Internal reporting requirements for adverse patient events;
- Patient safety;
- General safety (work environment);
- Emergency procedures;
- Infection control and universal precautions; and,
- Other issues as required by the hospital and Federal and State law and regulation.

Orientation to specific job duties may be addressed within the department or service where the employee is assigned, but completed prior to the employee working independently.

Verify the process in place for members of the medical staff completing a general orientation as noted within SM.6, SR.1.

SM.7 STAFF EVALUATIONS

SR.1 The performance/competency evaluation shall contain indicators that will objectively measure the ability of staff to perform all job duties as outlined in the job description. Relevant indicators may be selected from the list of indicators for measurement as outlined below.

SR.2 The staff shall be evaluated initially and on an on-going basis against indicators that measure issues and opportunities for improvement. The measures selected may be considered from the following:

SR.2a Variations and problem processes identified through the analysis of outcomes measurement as required by the QMS;

SR.2b High-risk, low volume procedures;

SR.2c New technology/equipment/processes;

SR.2d Customer satisfaction feedback;

SR.2e Scheduled training session outcomes;

SR.2f Staff learning needs assessments that include variations identified through prior staff performance measurement;

SR.2g Staff feedback;

SR.2h Medical staff feedback;

SR.2i Requirements of Federal or State law; and,

SR.2j Other indicators as determined by the organization.

SR.3 Indicator measurement for contract staff may be modified based on organization outcomes and

frequency of service of individuals. Modification of this measurement(s) will be made when needed

and shall be justified by data analysis.

SR.4 The organization shall aggregate objective performance data from sources that may include; individual evaluations, incident reports, risk management, staff and patient feedback, and/or data analysis to identify variations for further training, coaching, and mentoring.

SR.4a Reassessment of objective data shall follow any intervention.

SR.4b The outcomes of this aggregated data will be reported to Quality Management Oversight as needed to monitor staff performance improvement.

SR.5 The organization shall have a policy and procedure for sharing results of individual performance evaluations/competence assessment with staff members that allows for staff feedback within a timeframe defined by the organization, not to exceed one calendar year.

SR.6 The organization shall require each staff member, including contract staff, to participate in continuing

education as required by individual licensure/certification, professional association, law or regulation, or organization policy. Compliance with this standard shall be reported to Quality Management Oversight.

Interpretive Guidelines:

The hospital must continually evaluate the performance/competency of staff. This process of evaluation must include the use of indicators that will objectively measure the ability of staff to perform all job duties as outlined in the job description. These indicators may address one or more of the following:

- Variations and problem processes identified through the analysis of outcomes measurement as required by the QMS;
- High-risk, low volume procedures;
- New technology/equipment/processes;
- Customer satisfaction feedback;
- Scheduled training session outcomes;
- Staff learning needs assessments that include variations identified through prior staff performance measurement;
- Staff feedback;
- Medical staff feedback; and,
- Requirements of Federal or State law.

The hospital will have a policy and procedure for sharing results of individual performance evaluations/competence assessment with staff members that allows for staff feedback within a timeframe defined by the organization, not to exceed one calendar year.

The hospital may modify indicator measurement for contract staff based on organization outcomes and frequency of service of individuals. This measurement modification will be made when needed and shall be justified by data analysis.

The organization shall aggregate the objective performance data from sources that may include; individual evaluations, incident reports, risk management, staff and patient feedback, and/or data analysis to identify variations for further training, coaching, and mentoring.

In order to continually improve the fulfillment of their job responsibilities, the hospital shall require each staff member, including contract staff, to participate in continuing education as required by individual licensure/certification, professional association, law or regulation, or hospital policy.

Surveyor Guidance:

In a sampling of personnel records, verify that the hospital has a performance/competency evaluation process that includes appropriate measures as stated within the Interpretive Guidelines for SM.7.

Verify the policy and practice the hospital uses to validate the competency of staff occurs within a specified timeframe no less than once per calendar year.

Verify the policy and practice that the hospital uses to measure contract staff performance is based upon outcomes and frequency of service.

Verify that the hospital requires and makes provisions for each staff member, including contract staff, to participate in continuing education as required by individual licensure/certification, professional association, law or regulation, or hospital policy.